GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PR&RD Department – Elections – Conduct of Ordinary Elections to Panchayat Raj Institutions in the State- Orders of Hon'ble High Court of A.P. dt. 2-3-2020 in W.P.(PIL)No.2 of 2020 and Batch Cases – Finalization of reservations of in respect of SCs,STs and BCs to PRI institutions – Implementation of Orders of Hon'ble High Court - Orders - Issued.

PANCHAYAT RAJ & RURAL DEVELOPMENT (E&R) DEPARTMENT

G.O.Ms.No.559 **Dated:02.03-2020**

Read the following:-

1. G.O.Ms.No.90, PR&RD(E&R) Dept., Dt.01.08.2018.
2. G.O Ms No.106, PR&RD(E&R) Dept., Dt.03.07.2019.
3. G.O Ms No.107, PR&RD(E&R) Dept., Dt.04.07.2019
4. From the Secretary to State Election Commission, A.P., Vijayawada, Lr.183/SEC-B2/2017, dt.04.10.2019.
5. Orders of the Hon'ble High Court of Andhra Pradesh, dt.21.11.2019 in WP (PIL) No.141/2019 & WP (PIL) No.153/2019.
6. From the Commissioner, PR&RD., A.P., Guntur, Lr.661123/CPR&RD /D3(Election)/2019, dt:04.12.2019.
7. GO Ms No.176, PR&RD(E&R) Dept., Dt. 28.12.2019.
8. Orders of Hon'ble Supreme Court of India in Special Leave Petition (Civil) Nos. 1288 & 1024 of 2020. Dt.15.01.2020.
9. Orders of Hon'ble High Court in WP(PIL) No. 2 of 2020 Dt.02.03.2020.

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ORDER:

On expiry of term of the Members and Sarpanches of the Gram Panchayats in the State, the Government in the reference 1st read above, have authorized the concerned Collector & District Magistrate of the district to appoint the Special Officers to run the administration at Gram Panchayat level. Further, on expiry of the term of Mandal Praja Parishads and Zilla Praja Parishads in the State, the Government in the references 2nd & 3rd read above, have also appointed Special officers to run administration of the said institutions.

2. The Hon'ble High Court of Andhra Pradesh, Amaravati in its orders in the reference 5th read above has observed as follows:-

> *" …… election is required to be conducted by the State Government of all three tier system i.e., Gram Panchayat, Mandal Parishad and Zilla Parishad, to which reservation ought to be finalized on or before 03.01.2020 …."*

3. The Government after careful consideration of the matter and the proposal of the Commissioner, PR&RD, AP vide reference 6th read above, have decided to follow the existing percentage of reservations as provided in the A.P.Panchayat Raj Act, 1994 in the ensuing elections to Panchayat Raj Institutions and accordingly instructed the Commissioner, PR&RD to take further necessary action for conduct elections to the Panchayat Raj Institutions duly providing ST, SC reservations in proportion to their population as published in the 2011 census, which at present accounts to 6.77% and 19.08% respectively, and 34% for BCs., thus a total of 59.85% as provided under Sections 9,15, 152, 153, 180 & 181 of the A.P. Panchayat Raj Act, 1994.

4. Aggrieved by the above, certain individuals have filed W.P.(PIL)No.2 of 2020 before the Hon'ble High Court seeking to declare the orders issued in G.O.Ms.No.176, PR&RD(E&R) Dept., dt.28-12-2019 fixing the aggregate reservations for SCs,STs, and BCs as 59.85% as illegal and unconstitutional and against the law laid down by the Hon'ble Apex Court in the case of K.Krishna Murthy vs. Union of India to the effect that the reservations in respect of SCs, STs and BCs put-together should not exceed 50% in aggregate. They have also filed S.L.P (Civil) Nos.1288 & 1024 of 2020 before the Hon'ble Supreme Court. The Hon'ble Supreme Court in its orders in the reference 8th read above have stayed the orders issued by the Government vide reference 7th read above, and directed the Hon'ble High Court of A.P. to decide the matter in W.P.(PIL) No.2 of 2020 and connected matters if any in accordance law not later than four weeks.

5. Now, the Hon'ble High Court of A.P. in its orders dt.2-3-2020 in W.P(PIL) No.2 of 2020 dt.02.03.2020 and batch W.Ps., in the reference ninth read above have observed that in view of the legal position envisaged by the Judgment of K.Krishna Murthy Vs. Union of India, prescribing not less than 34% reservation to BCs in Sections 9(1-A), 15(2), 152(1A), 180(1A) and 182(2)(b) of the AP Panchayat Raj Act, by which the aggregate vertical percentage of reservations of SCs,STs and BCs exceed 50% and comes to 59.85 % is invalid. In consequence to the same the G.O.Ms.No.176, PR&RD(E&R) Dept., dt. 28-12-2019 of State Govt., prescribing minimum 34% reservations for BCs also stands set-aside. The Hon'ble High Court while allowing the said W.P.(PIL) and batch W.Ps., have directed that the State Government shall rearticulate the percentage of reservation of the Gram Panchayats, Mandal Praja Parishads and Zilla Praja Parishads to the Backward Classes, thereby the vertical reservation to the SCs, STs and BCs should not exceed 50% in aggregate, in the light of the judgment of the Hon'ble Apex Court in WP(c) No.356 of 1994 Dt. 11.05.2010 filed by K.Krishna Murthy. The Hon'ble High Court have set aside the G.O. G.O.Ms.No.176, PR&RD(E&R) Dept., dt. 28-12-2019 and directed the State Govt., to make provisions of reservations to BCs keeping in view of above decision made within a period of one month.

6. Government after careful examination of the matter have observed that the period for conducting election of Gram Panchayats, Mandal Praja Parishads and Zilla Praja Parishads has already been over and the election is due from 1-8-2018 i.e., more than 1 ½ year. Further unless elections are conducted to PRI Institutions before 31st March, the State would be denied of devolutions of funds under the 14th Finance Commission. The Govt., have therefore decided to modify the percentage of vertical reservations to Panchayat Raj Institutions to the effect that the aggregate reservations in respect of SCs,STs and BCs shall not exceed 50% as per the Law envisaged by the Hon'ble Apex Court in the case of Krishna Murthy Vs. Union of India.

7. Accordingly, the Government in implementation of orders of Hon'ble High Court of A.P. in the reference 9th read above, here by order that the percentage of reservations to STs and SCs for all the seats and offices in rural local body elections shall be in the proportion of their population to the total population as envisaged in sections 9,15, 152,

153, 180 & 181 of A.P.Panchayat Raj Act, 1994 and the reservations in respect of BCs for all the seats and offices shall be determined in such a way that the aggregate reservations for STs, SCs & BCs shall not exceed 50%, i.e., as per the Law laid down by the Hon'ble Apex Court in the case of K.Krishna Murthy Vs. Union of India.

8. The Commissioner, PR&RD., A.P., Guntur shall take necessary action, in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADEASH)

GOPAL KRISHNA DWIVEDI
PRINCIPAL SECRETARY TO GOVERNMENT

To:
The Commissioner, Panchayat Raj & Rural Development, AP, Guntur.

Copy to:
The Secretary, State Election Commission, AP, Vijayawada.
All the District Collectors in the State.
All the District Panchayat Officers in the State.
All the Chief Executive Officers of Zilla Parishads in the State.
The Law (F) Department.
The Secretary/Principal Secretary to Hon'ble Chief Minister
The OSD to Minister (PR&RD, M&G)
The OSD to Chief Secretary.
The PS to Principal Secretary, PR&RD.
SF/SC.

//FORWARDED :: BY ORDER//

SECTION OFFICER